

Exhibit 19

I, Dan Pacholke, declare as follows:

1. I am over the age of 18, have personal knowledge of the facts set forth herein, and, if called as a witness, I could and would testify competently as set forth below.

2. I have more than 37 years of experience, training, and education in the field of adult institutional corrections. This experience includes over three decades as an employee of the Washington State Department of Corrections (WDOC), beginning as a correctional officer and retiring as Secretary. In that time, I served as Chief of Emergency Operations; Superintendent of three correctional facilities (Cedar Creek Corrections Center, Stafford Creek Corrections Center, and Monroe Correctional Complex); Deputy Director; Director of Prisons; and Deputy Secretary. In October 2015, Governor Inslee appointed me to serve as Secretary of Corrections, a position I held until March 2016. As a WDOC employee in administration and leadership positions, I was one of the individuals responsible for the development and implementation of correctional policies, practices, and procedures.

3. My experience also includes work as a consultant for the National Institute of Corrections, a federal agency with a legislative mandate to provide specialized services to corrections from a national perspective, and as a Senior Research Scholar with New York University Marron Institute of Urban Management. Currently, I am a principal at Dan Pacholke Consulting, LLC and frequently consult with and collaborate with correctional systems, researchers, and policymakers on strategies to create safer correctional institutions. Attached as Exhibit 1 is a copy of my curriculum vitae.

4. As a result of my many years of experience in corrections, I have extensive knowledge of correctional policies and practices relating to the operation of prisons, including the standards regarding when and how individuals are released from custody, and, how and when

corrections can exercise its discretion to take immediate affirmative actions to address issues impacting the health and safety of people in custody into account.

5. In my opinion, COVID-19 represents a serious and unprecedented risk to the health and safety of people in living and working at FCC Butner. This risk makes it imperative that FCC Butner immediately take steps to proactively respond to the virus to protect those individuals. Among those steps is considering how the Federal Bureau of Prisons (“BOP”) can exercise its authority and discretion to reduce the prison population. This includes awarding good time credits, transferring people to home confinement, and supporting motions for compassionate release. All of these and any other options should be fully utilized to allow individuals to maintain social distancing and have better access to testing and treatment. This will also help mitigate the impact of any staff shortages and lessen the burden on prison medical services. Reducing the population density will improve the health and safety of people in custody who are currently symptomatic and/or test positive as well as individuals who have been exposed to COVID-19 but are not yet showing symptoms and have not yet been tested. As in the community outside BOP facilities, the numbers of individuals in both categories will increase exponentially.

6. Shortly after I was appointed Secretary of WDOC, I was faced with a crisis that, though different from the current COVID-19 emergency, was similar in that it required immediate and decisive action. In December of 2015, it was brought to my attention that WDOC had, for thirteen years, miscalculated certain sentences, resulting in approximately 3,600 inmates being released from prison an average of approximately 60 days early. We employed a number of strategies to resolve this error, one of which was the use of the furlough statute. This was used when it was determined that an offender released early had: (1) performed and continued to

perform appropriately on community supervision; (2) had an appropriate residence; and (3) had not absconded while on supervision or committed additional felony offenses. If these conditions were met, I authorized a furlough for 30 days, completed a follow-up check-in, and subsequently extended the furlough for an additional 30 days. This helped the impacted individuals maintain their job, living arrangement, and family responsibilities. The BOP has a similar mechanism allowing various classes of prisoners to be transferred to home confinement.

7. Faced with the current COVID-19 crisis, I believe that immediate action is needed to reduce the density of the prison population for the benefit of inmates and staff. I would determine who of those still housed in FCC Butner is within the categories that the BOP or other body has the legal authority to release or transfer, and establish objective criteria, such as having an appropriate release address, to establish who could safely be released or transferred to a non-prison setting, even though many might still remain in BOP custody. The criteria adopted should be designed to greatly and rapidly increase the number of releases, to significantly reduce the prison population.

8. The timely implementation of measures to reduce the prison population will decrease the density and slow the spread of this virus in our state prisons and work releases. It will allow FCC Butner the space it needs to accomplish more effective social distancing, allow more effective quarantining of impacted individuals, and greatly reduce the burden on medical staff and local hospitals. In many cases, this will return those individuals who would otherwise be released within the next year to their homes now, where they can more effectively self-isolate with their families, provide child and elder care, and receive testing and treatment as needed.

9. The staff and the people who live in prisons are at greater risk for the spread of diseases. It is imperative that FCC Butner do everything in its power to “flatten the curve” in

these facilities during this crisis to protect the health and safety of its staff and the people in its custody. The best way to do this is to quickly implement strategies to reduce the population, in a way that supports public health and safety, to reduce the spread of this virus and maintain increasingly limited staff and medical resources.

10. I have reviewed the following materials regarding the conditions at FCC Butner: Declarations of Charles Hallinan, John Dailey, Lewis Huntley, Arnold Hill, Josean Kinard, Benjamin McCrae, Lee Ayers, George Riddick, Jorge Maldonado, and Roger Goodwin, Randy Ortiz, Matthew Harrigan, Troy Titus, William Whyte, Antwan Harris, and John Krokos. The understanding I have of conditions at FCC Butner comes from these declarations, unless otherwise noted.

11. My understanding from Plaintiffs' Counsel is that FCC Butner is complex of four prisons, including (1) a medium security facility that has a population of 671 and an adjacent minimum security satellite camp of more than 200 prisoners; (2) a second medium security facility with a population of almost 1,500 prisoners; (3) a low security facility that houses over 1,200 prisoners, many of whom have chronic medical conditions; and (4) a Federal Medical Center housing over 900 prisoners, more than 500 of whom are there for treatment of serious medical or mental health conditions.

12. I understand that many incarcerated people at FCC Butner are housed in large open dormitories housing between 70 and 162 people in cubicles that have partial walls. I understand that some housing units contain as many as 120 people living in multiple-person cells, and some contain rows of bunkbeds in hallways. I understand that in all locations other than the Federal Medical Center and FCI Butner II, most of the people in the housing units must share a relatively small number of toilets, sinks, and showers, and must stand in line multiple

times a day to receive medications and meals. I understand that in all locations other than the Federal Medical Center at Butner, people must share shower facilities and other common areas. I understand that in all locations other than the Federal Medical Center people must share phones and computers and are in close proximity to each other when they are using them and when they are waiting for them.

13. Based on the description of the conditions at FCC Butner and my decades of experience in corrections, it is my professional opinion that people incarcerated in the conditions described in ¶ 12 cannot maintain 6' of distance between themselves and other people. It is further my professional opinion that, if there was a lower population density, there would be steps that the administration of FCC Butner could take to improve the ability of incarcerated people to socially distance, including reducing the number of people in cubicles and the number of cubicles in use, changing the manner in which meals and medications are provided, changing the ways in which phones and computers are used. It is also my professional opinion that steps could be taken to more frequently disinfect high touch surfaces.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.



Dan Pacholke

May 19, 2020

Exhibit 1

PROFILE

Served the Washington State Department of Corrections for 33 years, starting as a Correctional Officer and retiring as Secretary. Leader in segregation reform and violence reduction in prisons. Extensive experience in program development and implementation, facility management, and marshaling and allocating resources. Proven ability to make change. Led efforts resulting in a 30% reduction in violence and a 52% reduction in use of segregation in Washington State Prisons. Co-founder of Sustainability in Prisons Project. Champion of humanity, hope and legitimacy in corrections.

EMPLOYMENT HISTORY

Principal, Dan Pacholke Consulting, LLC. 2018 to Present

Offering a full range of consulting services in the field of corrections.

New York University, Litmus at Marron Institute of Urban Management

Associate Director 2016-2017

Collaborate with researchers and practitioners to develop alternatives to segregation and transform corrections management. Advance stakeholder-led research and innovation by soliciting, supporting, and disseminating the best new strategies to create safer, more rehabilitative corrections environments.

Washington State Department of Corrections

Secretary 2015-2016

Governor appointee providing executive oversight of the agency with a yearly operating budget of 850 million and 8,200 full time employees. Reorganized agency to allow for greater emphasis on effective reentry. Led department through response and recovery from a crisis resulting from the discovery of a sentencing calculation error that had occurred for over 13 years.

Deputy Secretary 2014-2015

Oversight over operations divisions: Offender Change; Correctional Industries; Community Corrections (16 Work Releases and 150 field offices); Prisons (15 facilities); and Health Services. These combined operations had a yearly operating budget of 700 million and 7,166 full time employees. Emphasis on core correctional operations, violence reduction, and performance management leadership to affect positive and sustainable system wide change.

Director, Prisons Division 2011-2014

Oversight over 15 institutions and contract relationships with jails and out of state institutions incarcerating approximately 18,000 offenders. Also responsible for providing emergency response and readiness oversight to all facilities and field offices of all divisions. Advanced multi-faceted violence reduction strategy to include the development and implementation of the "Operation Ceasefire" group violence reduction strategy for application in close custody units in prisons. Expanded Sustainability in Prisons Project programs to all prison facilities. Implemented classroom-setting congregant programming in intensive management units.

Deputy Director, Prisons Division 2008-2011

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Administrator over 6 major facility prisons, multi-custody level for adult male offenders with a biennial budget of 290 million. Provided leadership and appointing authority decision making to six facility Superintendents. Through Great Recession implemented staffing reductions, offender movement alterations and cost savings initiatives while maintaining safety and security. Represented the Department in legal issues, labor relations, media, staff discipline hearings, union relations and bargaining. Oversaw statewide operations of Emergency Preparedness and Response, Intelligence & Investigations, Intensive Management Units, Offender Grievance Program, Offender Disciplinary Program, Food Service, Sustainability and Close Custody Operations. Implemented statewide system of security advisory councils and security forums to improve staff safety.

Monroe Correctional Complex Interim Superintendent 2008

Led a 2,486-bed, multi-custody facility for adult male offenders.

Stafford Creek Corrections Center Superintendent 2007-2008

Led a 2,000-bed, multi-custody facility for adult male offenders with a biennial budget of 39 million. Implemented Sustainability in Prisons Project initiatives to include large scale composting to include zero-waste garbage sorting. Initiated first dog training programs for male offenders.

Cedar Creek Corrections Center Superintendent 2003-2007

Led a 400-bed, minimum-security adult male correctional facility, with a biennial budget of 7.3 million. Directed operational and related program activities to include security and custody programs, medical services, plant maintenance, education, and food service. Co-founded the Sustainability in Prisons Project with Nalini Nadkarni, PhD.

Monroe Correctional Complex Special Assignment Deputy Superintendent 2002

Formulated new strategic direction in order to enhance operations and security at the Complex, which consists of four separate units and houses approximately 2,300 adult male felons. Managed unit operations and security. Supervised the Intelligence Investigative Unit and Offender Grievance System. Developed and implemented capital construction initiatives at the Special Offender Unit and the Washington Reformatory Unit to enhance security of these Units.

Headquarters Performance System Administrator 1999-2002

Led the development and implementation shift from staff training department to an organizational performance system. Administered staff performance academies, supervised five regional teams, four Program Managers and provided leadership for policy development to support this department wide program. Administered the Department's Emergency Response Plan, Emergency Operations, Officer Safety Program and Firearms Training Unit.

Headquarters Emergency Response Manager 1995-1999

Developed and implemented statewide emergency response system. Directed the development of departmental policy, emergency response team academies and

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response protocols. Managed emergencies and security events. Directed Critical Incident Review Teams in the post incident analysis of critical incidents department wide. Led development of security plans for the management of high-risk operations to include 400 offenders out of state, Y2K, and execution security.

Clallam Bay Corrections Center

Correctional Captain 1989-1995

Responsible for the security management of a maximum, close, and medium custody male facility. Oversaw facility mission changes including: close custody conversion; implementation of blind feeding; facility double bunking; opening of an intensive management unit; opening of first direct supervision unit; and developed the facility's Emergency Response Plan.

Clallam Bay Corrections Center

Correctional Lieutenant 1986 -1989

Washington Corrections Center

Correctional Sergeant 1985-1986

McNeil Island Corrections Center

Correctional Officer 1982-1985

PUBLICATIONS

Useem, Bert, Dan Pacholke, and Sandy Felkey Mullins. "Case Study–The Making of an Institutional Crisis: The Mass Release of Inmates by a Correctional Agency." *Journal of Contingencies and Crisis Management* (2016)

Pacholke, Dan (2016, July 27). Change is relative to where you begin. Vera Institute of Justice. Think Justice Blog. <https://www.vera.org/blog/addressing-the-overuse-of-segregation-in-u-s-prisons-and-jails/change-is-relative-to-where-you-begin>

Pacholke, Dan and Sandy Felkey Mullins. *More Than Emptying Beds: A Systems Approach to Segregation Reform*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, 2016. NCJ 249858.

Pacholke, D. (2014, March). Dan Pacholke: How prisons can help inmates lead meaningful lives [Video file]. Retrieved from https://www.ted.com/talks/dan_pacholke_how_prisons_can_help_inmates_live_meaningful_lives?language=en

Young, C., Dan Pacholke, Devon Schrum, and Philip Young. *Keeping Prisons Safe: Transforming the Corrections Workplace*. 2014.

Aubrey, D., LeRoy, C. J., Nadkarni, N., Pacholke, D. J., & Bush, K. Rearing endangered butterflies in prison: Incarcerated women as collaborating conservation partners. 2012.

AWARDS

Olympia Rotary Club, Environmental Protection Award, 2013

Governor's Distinguished Managers Award, 2012

Secretary of State, Extra Mile Award, 2007

Governor's Sustaining Leadership Award, 2003

CONSULTING

Sustainability in Prisons Project, Co-Director
2004-2015

Nebraska Department of Correctional Services
2015

With Bert Useem, PhD, provided system assessment following May 2015 disturbance at Tecumseh State Correctional Institution in which two inmates were killed. Identified underlying causal factors and provided recommendations.

National Institute of Corrections
1998 to 2002

Provided training and consultation services to state, territory and federal correctional systems. Responsible for delivering of training to include: Management of Security, Entry Level Supervision, Emergency Preparedness Assessment, Disturbance Management and Basic Security.

Defensive Technology Corporation
Senior Instructor
1995 to 1998

Provided tactical and specialty munitions training to correctional and law enforcement personnel throughout the U.S.

Security Auditing & Critical Incident Reviews
Lead Auditor

Completed security audits and critical incident fact finding reviews in facilities throughout the Washington State Department of Corrections and two correctional jurisdictions in other states, one of which involved multi-jurisdictional entities.

EDUCATION:

The Evergreen State College, BA, Olympia, Washington

Career Highlights

- Reduced violence in Washington State prison system by over 30% while also reducing the number of people held in long-term administrative segregation by over 50%.
- Designed and implemented congregate group programming in the intensive management units (IMU's). The programs offered included evidence based programs and other complimentary offerings. Today all IMU's in Washington State prisons offer congregate programming.
- Designed and implemented the first prison Ceasefire model. This deterrence-based model reduced serious violent incidents (assault against staff, use of a weapon and multi on single man fights) by 50% and continues to be utilized in Washington State close custody (Level IV) prison to reduce serious violence.
- Co-authored a protocol for in-custody Swift, Certain and Fair sanctioning. This deterrence-based model offers a strategy for the reduction of low-level in-custody violations.
- Implemented the Correctional Officer Pre-Service training model at Clallam Bay Corrections Center. This 10-week program offered half-time course work and half-time OJT in order to certify newly hired correctional officers. This program was implemented state wide as the CORE Program, a six-week standardized training required of all staff that work in prisons.
- Served as a lead design team member on the creation and implementation of the Correctional Officer Achievement Program (COACH), a yearlong, on-the-job training program accredited by the WA State Board for Technical and Community Colleges.
- Led the design and development of a comprehensive agency-wide Emergency Response Plan and complimentary learning academies: Emergency Response Instructor (40 hrs.); Emergency Response Team (40 hrs.); Special Emergency Response Team (40 hrs.); Crisis Negotiator (40 hrs.); Joint Operations (24 hrs.); and the Designated Incident Management Team (multiple ICS certifications).
- Co-Authored, *Keeping Prisons Safe, Transforming the Corrections Workplace* and accompanying field guide which are used in CORE and Annual In-Service Training at WA DOC.
- Co-founder and past co-director of the Sustainability In Prisons Project; this program brings nature into prison and features science education. It is recognized internationally and features programs to restore endangered species e.g., Oregon Spotted Frog, Taylor Checker spot Butterfly, Indigenous Box Turtles and over fifty different rare and endangered native prairie plants. <http://sustainabilityinprisons.org>.
- Offered two TEDx events in prison. These events featured inmates, staff and volunteers as TEDx speakers.
- Implemented Dog retraining programs in all Washington State Prisons.